

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TIMOTHY DE FOGGI,

Defendant.

CASE NO. 8:13CR105

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report and Addendum (“PSR”). The government adopted the PSR (Filing No. 266). The Defendant has filed a “Sentencing Statement” (Filing No. 267), which the Court has construed as objections to the PSR. The Defendant has also filed a Sentencing Memorandum, along with an index, (Filing Nos. 269 and 270), which the Court has construed as a motion for a departure or variance from the guidelines. See Second Amended Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The Defendant's Sentencing Statement (Filing No. 267) and Sentencing Memorandum (Filing No. 269) will be addressed at the sentencing hearing;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are

required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, these tentative findings are final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 17th day of December, 2014.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge